

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
 )  
HAWAIIAN ELECTRIC COMPANY, INC. for )  
 )  
Approval to commit funds in excess of )  
\$500,000 for Item Y48500, )  
East Oahu Transmission Project" )  
\_\_\_\_\_ )

PUC Docket 03-0417

PUBLIC UTILITIES  
COMMISSION

2004 JAN -7 A 9:08

FILED

PALOLO COMMUNITY COUNCIL'S

MOTION TO INTERVENE

&

CERTIFICATE OF SERVICE

Karen H. Iwamoto  
President  
Palolo Community Council

3443 Hardesty Street  
Honolulu, Hawaii 96816

January 7, 2004

Aloha Commissioners:

On December 18, 2003, HECO filed a document with the Public Utilities Commission ("Commission") titled "In the Matter of the Application of HAWAIIAN ELECTRIC COMPANY, INC. for approval to commit funds in excess of \$500,000 for Item Y48500, East Oahu Transmission Project" ("EOTP"; Kamoku-Pukele").

This Motion to Intervene is filed according to the requirements of Hawaii Administrative Rules ("HAR") §6-61-55 Intervention. (a) A person may make an application to intervene and become a party by filing a timely written motion in accordance with sections 6-61-15 to 6-61-24, section 6-61-41, and section 6-61-57, stating the facts and reasons for the proposed intervention and the position and interest of the applicant.

A person may make an application to intervene (HAR §6-61-55(a)). Palolo Community Council is a person as defined by HAR §6-61-2.<sup>1</sup> Palolo Community Council has filed a timely Motion to Intervene as specified under HAR §6-61-57.<sup>2</sup> In this case, HECO filed their application on Thursday, December 18, 2003. The public has 20 days, until Wednesday, January 7, 2004, to file. Palolo Community Council has complied by filing this Motion on Wednesday, January 7, 2004. Palolo Community Council will be represented by its President, Karen Iwamoto, in accordance with HAR §6-61-12.<sup>3</sup> Palolo Community Council requests that our Motion to Intervene be decided at a hearing, as set forth in HAR §6-61-41.<sup>4</sup>

L) HAR §6-61-55 Intervention. (b) The motion shall make reference to:

**1) The nature of the applicant's statutory or other right to participate in the hearing;**

The PUC established precedence for intervention in the Waiau-CIP Transmission Line case. HECO filed an application (Docket No. 7256), dated March 12 1992, to build transmission lines between their Waiau Power Plant and Campbell Industrial Park ("Waiau-CIP"). The public was given 20 days to intervene. Fifty-one (51) weeks after the application was filed, two groups, the Village Park Community Association (VPCA); and the Tungpalan Appellants (16 county and state legislators) applied to intervene.<sup>5</sup>

<sup>1</sup>HAR §6-61-2 Definitions: "'Person' means and includes individuals, partnerships, corporations, associations, joint stock companies, public trusts, organized groups of persons, whether incorporated or not, receivers or trustees of the foregoing, municipalities, including cities, counties, or other political subdivisions of the State, or any agency, authority or instrumentality of the State or of any one or more of the foregoing."

<sup>2</sup>HAR §6-61-57 "Time to file. A motion to intervene or participate, to be timely, shall be filed and served as follows: (3) A motion to intervene or participate shall be served on all parties and the consumer advocate and filed, in the proceedings other than those specified in paragraphs (1) or (2), no later than: (A) Twenty days after an application is filed."

<sup>3</sup>HAR §6-61-12 "Appearance before the commission. (a) Any party to a proceeding before the commission may appear in person or may be represented by a partner or by an officer or authorized employee of a corporation, trust, or association."

<sup>4</sup>HAR §6-61-41 Motions. "(b) Every motion, except one entitled to be heard ex parte, shall indicate whether a hearing is requested on the motion. If a motion requires the consideration of facts not appearing of record, it shall be supported by an affidavit or affidavits. Motions shall be served in accordance with section 6-61-21. ... (f) If a hearing is requested, the movant shall obtain a date and time for hearing on the motion from the chief clerk."

<sup>5</sup>The PUC noted in their D&O that "No person filed a motion to intervene by the deadline." The initial Amfac motion to intervene was filed on April 3, 1992 and was rejected. On October 30, 1992, the PUC issued Stipulated Prehearing Order No. 11998. Among other things, the order established the following schedule: November 18, 1992, for HECO's direct testimonies; January 27, 1993 for the Consumer Advocate, Amfac, and WCC written testimonies; March 24, 1993 for HECO's rebuttal testimonies; and April 7, 1993 for the evidentiary hearing. The evidentiary hearing was held over a 14-day period from April 7 to May 3. Parties filed their Opening Briefs on June 28, 1993. The PUC allowed HECO to re-open the evidentiary hearing to hear emf testimony on July 29, 1993.

HECO did not object to this very late intervention: "In accordance with Commission Rule 6-61-41, this notifies the Commission of Hawaiian Electric's ("HECO") position on the Motion for Enlargement of Time to Intervene and Motion to Intervene filed by the Village Park Community Association ("Movant") dated March 5, 1993 ("Motions") in the above referenced docket.

HECO Position. With certain reservations and this opportunity to state its concerns surrounding the Motions, and providing the Movant does not broaden the issues or delay the proceeding, HECO does not oppose the Commission's granting of the Motions. HECO is taking this position, because of its conviction that, despite earlier opportunities, it is important that the Movant have an opportunity to state its position regarding the proposed transmission line before the Commission. HECO has consistently sought and considered public and governmental input to its proposed project, as evidenced by a record of its public and agency consultation attached as Exhibit A. Building new transmission lines between our Waiiau Power Plant and Campbell Industrial Park is currently HECO's highest priority to address reliability of electric service to our customers. The project under consideration in this docket will form a portion of those lines. HECO's position with regard to these Motions is based in large part on Movant's following statement. 'The Community Association does not seek to delay the proceedings on this matter. The Community Association understands that a Prehearing Order with time deadlines has been set for this docket, and seeks by this Motion to have full participation rights as intervenors within the deadlines that have already been established.'" (HECO filing dated March 12, 1993)

Nor did the Consumer Advocate object: "The Consumer Advocate does not oppose the granting of the motions and therefore defers to the Commission's exercise of its discretion with one caveat. In assessing the merits of the motions and in course of exercising its discretion, the Commission should not grant the motions on the basis of a specious legal argument. In the motion filed by the group of elected officials, the movants argue that they have been denied their fundamental due process since the Consumer Advocate did not adopt rules setting forth the criteria by which the Consumer Advocate arrives at his position." (Consumer Advocate letter to the PUC, dated March 12, 1993)

2) The nature and extent of the applicant's property, financial, and other interest in the pending matter. The Palolo Community Council is a 501-c-3 nonprofit corporation established in 1952 and is comprised of members from organizations in Palolo Valley. The Palolo Community Council's interest in the pending matter is of long standing. The Palolo Community Council led the power lines fight against HECO in the late 70's. While that issue was successfully staved off, the Palolo Community has seen several attempts over 25 years by HECO to place their power lines near or through our Valley. This current action, even though purportedly is the 46KV Underground Expanded route, could take a turn back to Palolo Valley, if HECO is not successful. The main contention of all the affected communities is that there is no proven need for the lines. We do not want to play one community against each other when the common threat is HECO.

3) The effect of the pending order as to the applicant's interest;

Some of HECO's proposed alternatives would go underground through Palolo or overhead in viewplanes seen from Palolo. As long-time Palolo property owners and renters we are deeply concerned and have an interest in protecting our valley.

4) Other Means Available Wherein Applicant May Protect His Interest. There are no other means available to protect our interests.

5) Other Parties Do Not Represent Palolo Community Council's' Interests. The existing parties are HECO, which proposed the project; and the Consumer Advocate, which seeks to minimize utility rates. Palolo Community Council members are concerned residents of Palolo.

6) Palolo Community Council's Participation will Assist the Development of a Sound Evidentiary Record. Palolo Community Council seeks to educate and inform the PUC regarding issues and concerns of Palolo residents.

7) Movants' Participation Will Neither Unduly Broaden The Issues Nor Delay This Proceeding. Palolo Community Council's participation will not obstruct or unreasonably delay, or attempt to obstruct or unreasonably delay, discovery proceedings or other proceedings, that is or would be prejudicial to the interests of any opposing parties.

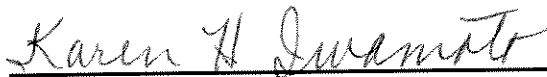
8) Palolo Community Council's Interests Differ From Those Of Those Of The General Public. The general public is represented by the Consumer Advocate who represents all consumers. The Consumer Advocate is bound by the law to represent the interests of the general public. Palolo Community Council believes that the interest of the general public, as

perceived by the CA, is the delivery of electricity at the cheapest cost. Palolo Community Council is concerned about impacts to Palolo. Palolo is the community that has had the longest history of dealing with the imposition of power lines through our Valley. Even the underground alternative proposed by HECO will not serve residents of our Valley.

9) Whether the applicant's position is in support of or in opposition to the relief sought. Palolo Community Council opposes this application by HECO. There is no need for this line. Palolo should not be scarred for this unneeded project.

**CONCLUSION** For the above stated reasons Palolo Community Council respectfully requests that the Commission grant our Motion to Intervene.

Dated January 7, 2004



Karen H. Iwamoto  
President  
Palolo Community Council

Certificate of Service

I hereby certify that I have this date served a copy of the foregoing Motion to Intervene by Palolo Community Council, Docket Number 03-417, upon the following parties. The original and 8 copies to the PUC. Two copies to the Consumer Advocate. Three copies to HECO.

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Dated January 7, 2004



Karen H. Iwamoto  
President  
Palolo Community Council